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EXAMINER

KALINOWSKI, A

ART UNIT

PAPER NUMBER

2166

DATE MAILED:

11/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/237,194**

Applicant(s)  
**Brown**

Examiner  
**Alexander Kalinowski**

Group Art Unit  
**2166**



☒ Responsive to communication(s) filed on Sep 8, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 25-33 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 25-33 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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### **DETAILED ACTION**

1. Claims 25-33 are presented for examination. Applicant filed an amendment on 9/8/2000 amending claim 25. In light of a newly added limitation to claim 25, the Examiner withdraws the rejection of claims 25-33 based on 35 USC 102 and 35 USC 103. New grounds of rejection of claims 25-33 based on 35 USC 103 are established in the instant office action as set forth in detail below.

### ***Response to Arguments***

2. In light of Applicant's argument directed to the rejection of claims 25 and 26 under 35 USC 112(2), the Examiner finds Applicant's argument persuasive and withdraws the rejection.

3. With respect to the rejection of claims 25-33 based on 35 USC 102 and 35 USC 103, Applicant argues that neither Fujimoto nor Fu disclose the limitation of "a clearinghouse facility coupled to the signal interface over a digital network for receiving said transmission signals supplied via said signal interface, said clearinghouse facility being remotely located from said patient interactive and feedback unit and capable of storing said video signal for remote retrieval and retransmission" found in claim 25. The Examiner disagrees. As a preliminary matter, the Examiner notes that the Applicant argues newly added limitations to claim 25 that were not present in any of the previously pending claims. The previous rejection of claims 25-33 based on 35 USC 102 and 35 USC 103 was modified in order to account for the newly added feature. New

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grounds of rejection of claims 25-33 are established in the instant office action in order to account for the newly added limitation to claim 25.

Applicant argues that Applicant amended claim 25 to add the limitation of using a clearinghouse as an intermediary in communication between the patient side unit and the health provider side unit and therefore, distinguishes Applicant's invention from the teachings of Fujimoto and Fu references. The Examiner disagrees. The Examiner notes that nowhere in claim 25 nor any other claim can the Examiner find language that supports Applicant's description that the clearinghouse facility communicates information to the health provider unit. In fact, the newly added limitation to claim 25 only describes communications from the patient side unit to the clearinghouse facility. Communications to the health provider unit are described as being received from the signal interface, which is attached to the patient side unit. From the claim language, it appears that the clearinghouse facility unit and the health provider unit may comprise a single unit of the system. The claim language of claim 25 fails to support Applicant's characterization of the claimed monitoring system using a clearinghouse as an intermediary in communication between the patient side unit and the health provider side unit and that this distinguishes Applicant's claimed invention from the teachings of Fujimoto and Fu references. Therefore, Applicant's arguments directed to claims 25-33 are not persuasive.

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*Claim Objections*

4. Claim 25 is objected to because of the following informalities: typographical error in claim 25.

On page 2, line 2, replace "interface unit" with --interactive unit--. Appropriate correction is required.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 25-27 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto, U.S. Patent No. 5,339,821 in view of Fu et al., Pat. No. 5,803,625.

As per claim 25, *Fujimoto* discloses a health monitoring system comprising:

a monitoring device for monitoring a condition indicative of a person's physical well-being and for generating a digitally encoded health signal representative of said monitored condition [Figure 5 (monitor person's blood pressure)];

a patient interactive and feedback unit coupled to said monitoring device comprising:

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a display [Figure 2, Ref. No. 14];  
an input device for receiving input [Figure 2, Ref. No. 15, 16, 17 (buttons for entering “yes,” “no,” and a selection)];  
a memory comprising program components [Figure 4, Ref. No. 33]; and  
a processor coupled to said input device and said display [Figure 4, Ref. No. 25 (cpu)]  
for generating a video signal according to at least one of the stored program components, the  
received input and the generated digitally encoded health signal, wherein said display generates a  
display according to said generated video signal;  
a signal interface coupled to said interface unit for generating a transmission signal  
according to at least one of said generated video signal and the generated digitally encoded health  
signal [Figure 1, Ref. No. 2]; and  
a health provider unit comprising a processor and display [Figure 1, Ref. No. 5], said  
health provider unit is coupled to the signal interface over a digital network for receiving the  
generated transmission signal [Figure 1, Ref. No. 3], wherein the processor of said health provider  
unit generates a video signal according to said received transmission signal and said display of said  
health provider unit generates a display according to said video signal generated by the processor  
of said health provider unit [Figure 1, Ref. No. 3].

*Fujimoto* does not explicitly disclose

a clearinghouse facility coupled to the signal interface over a digital network for receiving  
said transmission signals supplied via said signal interface, said clearinghouse facility being

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remotely located from said patient interactive and feedback unit and capable of storing said video signal for remote retrieval and retransmission.

However, *Fu* discloses a clearinghouse facility (i.e. computer 24) coupled to the signal interface over a digital network for receiving said transmission signals supplied via said signal interface, said clearinghouse facility being remotely located from said patient interactive and feedback unit and capable of storing said video signal for remote retrieval and retransmission (see Fig. 3 and col. 7, lines 49-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the clearinghouse facility within the *Fujimoto* system in order to store health parameters data of a patient to assist medical personnel in assessing the health of the patient (col. 2, lines 1-16).

As per claim 26, *Fujimoto* does not disclose that the patient interactive and feedback unit is a palmtop computer. Official notice is taken that palmtop computers capable of providing interaction and feedback are well known in the computer arts. E.g., 3Com Palm Pilot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate some of the functionality of the invention using a palmtop computer. The motivation would have been to provide a convenient way to provide interaction.

As per claim 27, *Fujimoto* does not disclose that the patient interactive and feedback unit is a personal digital assistant or PDA. Official notice is taken that personal digital assistants (PDA's) capable of providing interaction and feedback are well known in the computer arts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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incorporate some of the functionality of the invention using a PDA. The motivation would have been to provide a convenient way to provide interaction.

As per claim 29, *Fujimoto* discloses that said memory stores said monitored condition indicative of the person's physical well-being, said video signal generated by said processor of said patient interactive and feedback unit is a trend chart corresponding to said stored monitored condition indicative of the person's well-being, and said display of said patient interactive and feedback unit displays said trend chart [Figure 6 (EKG)].

As per claim 30, *Fujimoto* discloses that said patient interactive and feedback unit receives information from the health provider unit, processes the received information and displays the processed information on the display [col. 5, line 68 to col. 6, line 9 (doctor remotely inputs medical questions that are then transmitted to the apparatus)].

As per claim 31, *Fujimoto* discloses a health monitoring method comprising:  
monitoring a patient for a health-related parameter and generating an encoded health signal representative of said monitored parameter [Figure 5 (monitor person's blood pressure)];  
generating a display for viewing by the patient according to the encoded health signal [Figure 5 (note that blood pressure value is displayed in this process)];  
generating a transmission signal incorporating the encoded health signal [Figure 1]; and  
transmitting said transmission signal to a remote facility [Figure 1].

As per claim 32, *Fujimoto* discloses generating a digitally encoded health signal comprises generating a history of said monitored health-related parameter and generating a display



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comprises a display of a trend chart corresponding to said generated history of said monitored health-related parameter [col. 8, lines 31-34 (“Further, the host computer can provide a display of a variation graph of the blood pressure, the pulse, the body temperature, the weight and so forth for the last month....”)].

As per claim 33, *Fujimoto* discloses generating a display at said health provider unit according to said received transmission signal [Figure 1].

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Fujimoto*, U.S. Patent No. 5,339,821 and *Fu et al.*, U.S. Patent No. 4,803,625 as applied to claim 25 above and further in view of *Kuch*, U.S. Patent No. 5,454,721.

As per claim 28, *Fujimoto* discloses that said patient interactive and feedback unit displays statistical data graphically or alphanumerically [col. 4, lines 48-56 (the pulse rate is statistically determined by taking a sample of pulses; the pulse rate is then displayed to the patient)].

*Fujimoto* does not disclose that said patient interactive and feedback unit performs a testing sequence and associated calibration and testing procedures.

*Fu et al.* teach a patient interactive and feedback unit that performs a testing sequence and associated calibration and testing procedures [Figure 7]. It would have been obvious to one of ordinary skill in the art at the time was made to combine the testing sequence and associated calibration and testing procedures taught by *Fu et al.* with the system of *Fujimoto*. The motivation would have been to provide an efficient way to test the system for errors to avoid

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possible misdiagnosis or incorrect results.

*Fujimoto* does not disclose that said patient interactive and feedback unit supplies control signals and signals representative of food intake; and simultaneously displays information representative of said monitored condition with images representative of food intake.

*Kuch* teaches a patient interactive and feedback unit that supplies control signals and signals representative of food intake; and simultaneously displays information representative of said monitored condition with images representative of food intake [col. 10, lines 6-29 (displaying nutritional information including American Dietetic Association Food Exchange Units and food images for selected foods)]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine these features of *Kuch* with *Fujimoto*. The motivation would have been to educate patients as to proper nutrition so as to carefully manage the medical condition. See *Kuch*, "Background of the Invention" for a discussion of the role of nutrition in managing illness, and the importance of using graphical tools to educate persons including diabetics as to proper nutrition.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Pat. No. 5,204,670 describes a monitoring system.

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9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 8:30 AM to 6:00 PM. In addition, the examiner can be reached on alternate Fridays.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax telephone number for this group is (703) 305-0040.

Alexander Kalinowski

11/17/2000



ERIC W. STAMBER  
PRIMARY EXAMINER